



21 APR 2009

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

Robert Popa  
LADAS & PARRY  
5670 Wilshire Boulevard  
Suite 2100  
Los Angeles, CA 90036-5679

In re Application of  
YOUNG-MAN PARK et al  
Appl. No.: 10/562,605  
PCT No.: PCT/KR04/01569  
Int. Filing Date: 28 June 2004  
Priority Date: 27 July 2003  
Agent's File Reference: B-5851PCT 623146-3  
For: TWO-FACTOR AUTHENTICATED KEY  
EXCHANGE METHOD AND AUTHENTICATION  
METHOD USING THE SAME, AND RECORDING  
MEDIUM STORING PROGRAM INCLUDING THE  
SAME

DECISION UNDER  
37 CFR 1.181

Applicants' 22 January 2007 "Response to Notification of Abandonment" has been received. The 22 January 2007 communication is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment. No petition fee is required. The petition is **DISMISSED**.

#### **BACKGROUND**

On 27 December 2005, applicants filed U.S. application 10/562,605 as a national stage entry of international application PCT/KR04/01569. An executed oath/declaration was not included with the original application papers.

On 28 April 2006, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) informing applicants that an executed oath/declaration accompanied by a surcharge in the amount of \$130 was due.

On 25 August 2006, applicants purportedly filed a response to the Form PCT/DO/EO/905 mailed 28 April 2006 forwarding a surcharge in the amount of \$130 and a \$450 fee for a two-month extension of time.

On 26 December 2006, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" (Form PCT/DO/EO/909) informing applicants that U.S. application 10/10/562,605 is abandoned because applicants failed to respond to the Form PCT/DO/EO/905 mailed 28 April 2006.

On 22 January 2007, applicants filed the present petition requesting that the Form PCT/DO/EO/909 mailed 26 December 2006 be vacated.

### DISCUSSION

MPEP at section 503 provides that:

*"A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO."*

The copy of the return receipt postcard itemizing the oath/declaration, the \$130 surcharge and the \$450 extension of time fee does not show a date stamp as the OIPE date stamps were cancelled. The present petition indicates that there are two separate postcards and a review of the postcards indicates receipt of only the assignment on 25 August 2006. Therefore, the postcard itemizing the oath/declaration, the \$130 surcharge and the \$450 extension of time fee does not constitute *prima facie* evidence of receipt in the PTO of the items listed thereon.

As an alternative, Petitioner should file a petition under 37 CFR 1.10(e) (filing of correspondence by "Express Mail"). As the alleged response filed on 25 August 2006 was apparently filed by the express mail service of the USPS, further evidence in the form of a copy of the express mail label is required. See also 37 CFR 1.10(e)(3).

### CONCLUSION

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **DISMISSED without prejudice**. The Form PCT/DO/EO/909 mailed 26 December 2006 remains of record.

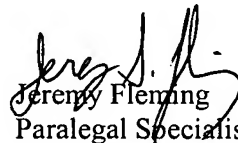
Applicants are hereby accorded 2 (TWO) MONTHS from the mailing date of this decision to file a response. The request for reconsideration should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Any further correspondence with respect to this matter should be addressed to the Assistant Commissioner for Patents, Mail Stop PCT, Alexandria, VA 22313-1450, with the contents of the letter directed to the attention of the Office of PCT Legal Administration.



Rafael Bacares  
PCT Legal Examiner  
Office of PCT Legal Administration

JSF/RB:jf



Jeremy Fleming  
Paralegal Specialist  
Office of PCT Legal Administration

(571) 272-3284